

**TITLE 5. Education**  
**Education Audit Appeals Panel**

Notice of Proposed Rulemaking

*Audits of K-12 Local Education Agencies*  
Fiscal Year 2008-09

The Education Audit Appeals Panel (EAAP) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**Public Hearing:**

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her duly authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to the Regulations Coordinator.

**Written Comment Period:**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period closes at **5:00 p.m. on July 14, 2008**. EAAP will consider only written comments received by the Regulations Coordinator by that time. Written comments for EAAP's consideration should be directed to:

Chris Pentoney, Regulations Coordinator  
Education Audit Appeals Panel  
770 L Street, Suite 1100  
Sacramento, CA 95814  
Fax: (916) 445-7626  
e-mail: [cpentoney@eaap.ca.gov](mailto:cpentoney@eaap.ca.gov)

**Authority and Reference:**

Authority cited: Section 14502.1, Education Code.

Reference: Sections 8482.3, 14501, 14502.1, 14503, and 41020 of the Education Code.

**Informative Digest/Policy Statement Overview:**

The regulations in Title 5 of the California Code of Regulations, Division 1.5, Chapter 3, constitute the audit guide required by Education Code sections 14503 and 41020. The audit guide provides guidance, through definitions of terms and specification of procedures, to auditors in the conduct of statutorily required financial and compliance audits of local education agencies. EAAP proposes amendments and additions to these regulations for the 2008-09 fiscal year that derive from proposed content submitted to EAAP by the Controller pursuant to Education Code Section 14502.1. The affected regulation sections are 19816, 19816.1, 19828.2, 19837.1, and 19846, and new sections 19828.3, and 19837.2.

Article 2, Audit Reports, includes definitions of terms in Section 19816, which is amended to specify the numbers of audit procedures for fiscal year 2008-09. Section 19816.1 specifies which

sections of the audit guide are applicable to each audit year; it is amended to list those sections applicable to audits of fiscal year 2008-09, omitting the procedures related to kindergarten continuance, state school construction funds, excess sick leave, notification of right to elect CalSTRS membership, Proposition 20 lottery funds, state lottery funds, and California School Age Families Education.

Article 3, State Compliance Requirements: Local Education Agencies Other Than Charter Schools, Article 3.1, State Compliance Requirements: School Districts and Charter Schools, and Article 4, State Compliance Procedures: Charter Schools list the particular state-funded education programs that are required to be audited and set forth procedures that direct auditors to relevant documents and reports and guide auditors in steps to determine whether an auditee was in compliance with the relevant statutory and regulatory requirements during the period audited. No amendments are proposed for Article 4.

In Article 3, two existing sections are being amended to modify an introductory sentence limiting their applicability to one audit year, and two successor sections are being added to incorporate changes applicable to audits of fiscal year 2008-09 and thereafter:

- Section 19828.2, Instructional Materials, is limited to audits of fiscal year 2007-08. In addition, nonsubstantive changes are being made for style and clarity in the audit guide. Successor Section 19828.3 will apply to audits of fiscal year 2008-09 and each fiscal year thereafter. Subparagraph (e)(5) will direct auditors to scrutinize more closely the certification made pursuant to Education Code Section 60422
- Section 19837.1, School Accountability Report Card, is limited to audits of fiscal year 2007-08. Successor Section 19837.2, for fiscal year 2008-09 and future years, conforms the cross references in subparagraph (c) to new Section 19828.3.

In Article 3.1, Section 19846, After School Education and Safety Program, nonsubstantive changes are made to subparagraphs (a)(2), (a)(5), and (b)(2) for style and clarity in the audit guide.

**Disclosures Regarding the Proposed Action:**

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None
- Other non-discretionary cost or savings imposed upon local educational agencies: None
- Cost or savings in federal funding to the state: None
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
  - (1) create or eliminate jobs within California;
  - (2) create new businesses or eliminate existing businesses within California; or
  - (3) affect the expansion of businesses currently doing business within California.

- Significant affect on housing costs: EAAP has made an initial determination that the proposed regulatory action would not affect housing costs.
- Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

### **Consideration of Alternatives:**

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative considered by EAAP or that has otherwise been identified and brought to the attention of EAAP would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

EAAP invites interested persons to present statements or arguments regarding alternatives to the proposed regulations during the written comment period.

### **Contact Persons:**

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Chris Pentoney, Regulations Coordinator, at (916) 445-7745 or by e-mail: [cpentoney@eaap.ca.gov](mailto:cpentoney@eaap.ca.gov). The back-up contact person for general inquiries is Carolyn Pirillo, at (916) 445-7745.

### **Availability of Initial Statement of Reasons and Text of Proposed Regulations:**

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

### **Availability of Changed or Modified Text:**

Following the comment period, and a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address stated above. The Regulations Coordinator will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **Availability of the Final Statement of Reasons:**

Upon completion of the Final Statement of Reasons, a copy may be obtained by contacting the Regulations Coordinator at the above address.

### **Availability of Documents on the Internet:**

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, and Final Statement of Reasons will be accessible, through the Education Audit Appeals Panel website: [www.eaap.ca.gov](http://www.eaap.ca.gov)